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10/534,873	11/22/2005	Marc Joye	032326-301	6724
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EXAMINER				
WRIGHT, BRYAN F				
ART UNIT		PAPER NUMBER		
2431				
NOTIFICATION DATE		DELIVERY MODE		
05/27/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com
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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/534,873

Applicant(s)

JOYE ET AL.

Examiner

BRYAN WRIGHT

Art Unit

2431

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.104(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-13.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Notes Below.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/BRYAN WRIGHT/
Examiner, Art Unit 2431

/Syed Zia/
Primary Examiner, Art Unit 2431

Note 1:

The applicant alleges that the subject matter rejected under 112th 2nd paragraph presents clear and defined scope. The Examiner respectfully disagrees with applicant. The claim language used as part of claims 3, 6, 10, and 11 does not clearly point out and distinctly define claim limitations. For example:

Claim 3 recites: "register of m+l bits containing the data item a"

The Examiner contends that such claim language cannot be properly construed by one of ordinary skill in the art to distinctly point out a searchable claim limitation.

Additionally, In claim 10, the applicant recites the following:

"wherein the symbol "<" indicates loading of a content of a register containing data on the right of the symbol in a register containing data on the left of the symbol."

The Examiner respectfully submits that one of ordinary skill in the art cannot properly construe this statement to be definitive subject matter setting forth a proper claim limitation. These are a few of many examples of how applicant fails to clearly point out and distinctly define subject matter for which applicant considers to be patentable over the prior art.

Furthermore, such indefinite subject matter cannot render a proper search of the prior art on the part of the Examiner.

Note 2:

With regards to applicant's remarks concerning the 103 rejection, the Examiner contends that Menezes discloses a division operation comprising a "For" program control loop and that applicant also discloses a division operation comprising of a "For" program control loop. Additionally, the applicant acknowledges this fact as evident of applicant's remarks presented on 4/26/2010. See applicant's remarks pg. 4 made on 4/26/2010.

The applicant's alleges differentiation over the cited prior art based on the number of performed loop iterations and a subjective opinion describing the susceptibility of Menezes to attacks. The Examiner contends that the "For" loop of Menezes as illustrated could possibly produce the same result as applicant's "For" loop with equal or less iterations. Therefore, the Examiner contends discounting Menezes based on the number of division iteration operations performed and subjective opinion is not sufficient to overcome the rejection.

Additionally, applicant's statement regarding Dexter relies on applicant's previous iteration argument regarding Menezes. Accordingly, the Examiner finds applicant's statement in this matter to be non-persuasive based on Examiner's assertion above.